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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/727,321

12/03/2003

Oliver Keren Ban

AUS920030787US1

6222

82531 7590 03/15/2010

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EXAMINER

SIKRI, ANISH

ART UNIT

PAPER NUMBER

2443

MAIL DATE

DELIVERY MODE

03/15/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/727,321	BAN, OLIVER KEREN	
	Examiner	Art Unit	
	ANISH SIKRI	2443	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 1 is objected to because of the following informalities: The claim states a method claim and the claim is defined as a means for type claim. Appropriate correction is required.

Claim 2 is objected to because of the following informalities: The claim states the use of a "coded" header. The use of 'coded' has been removed in all the claims by the amendment filed by the applicant on 9/18/09. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims **1-15** are rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention.

Note: Examiner states that the new amendments introduces new numerous 112 2nd rejections to the extent that it is almost impossible to meet the bounds of the claims.

In the independent claims **1**, **6**, and **11**, the applicant has stated "means for temporarily storing a broadcasting payload of a broadcasting packet inside the receiving broadcasting router; means for temporarily stripping the broadcasting payload from the broadcasting packet at the receiving router". It is not clear to a person skilled in the art on how the payload by itself is stored first and then stripped from the packet. The examiner believes that those two lines need to be swapped and should recite "means for temporarily stripping the broadcasting payload from the broadcasting packet at the receiving router, means for temporarily storing a broadcasting payload of a broadcasting

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packet inside the receiving broadcasting router". The swapping of the lines would make it clear to one skilled in the art to interpret that the broadcasting payload is stripped from the broadcasting packet at the receiving router, when the packet is sent to it.

The applicant is not clear on how stripping of the payload is done temporarily? One can see on how the broadcasting packet or payload is stored temporarily. But how is stripping done to the packet a temporarily? The specification does not adequately explain on how the packet is stripped temporarily?

The applicant states that after the packet is stripped into a header and payload form at the receiving router, then the sender router sends headers to the receiving router. This is stated in the following lines of the claim "means for transmitting a header for each of plurality of the broadcasting packets from the sending router to the receiving router, wherein said packets have different headers and identical payloads". To a person skilled in the art - "headers" can not be sent to a router by itself. A packet is transmitted which consist of payload and header (this is common and well known in the art - the components of packet are header and payload). The specification does not adequately disclose or explain on how headers only are transmitted.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

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Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim(s) 11-15 are rejected under 35 USC 101 since the claims are directed to non-statutory subject matter. Claim(s) 11-15 recite computer-readable medium which appear to cover both transitory and non-transitory embodiments. The United States Patent and Trademark Office (USPTO) is required to give claims their broadest reasonable interpretation consistent with the specification during proceedings before the USPTO. *See In re Zletz*, 893 F.2d 319 (Fed. Cir. 1989) (during patent examination the pending claims must be interpreted as broadly as their terms reasonably allow). The broadest reasonable interpretation of a claim drawn to a computer readable medium (also called machine readable medium and other such variations) typically covers forms of non-transitory tangible media and transitory propagating signals *per se* in view of the ordinary and customary meaning of computer readable media, particularly when the specification is silent. *See* MPEP 2111.01. When the broadest reasonable interpretation of a claim covers a signal *per se*, the claim must be rejected under 35 U.S.C. § 101 as covering non-statutory subject matter. *See In re Nuijten*, 500 F.3d 1346, 1356-57 (Fed. Cir. 2007) (transitory embodiments are not directed to statutory subject matter) and *Interim Examination Instructions for Evaluating Subject Matter Eligibility Under 35 U.S.C. § 101*, Aug. 24, 2009; p. 2.

The Examiner suggests that the Applicant add the limitation “non-transitory” to the computer-readable medium as recited in the claim(s) in order to properly render the

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claim(s) in statutory form in view of their broadest reasonable interpretation in light of the originally filed specification. The Examiner also suggests that the specification may be amended to include the term “non-transitory computer readable medium” to avoid a potential objection to the specification for a lack of antecedent basis of the claimed terminology.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims **1-15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Krause (US Pub 20050180568), view of Karim (US Pub 20030217108).

Consider independent **Claims 11, 1, and 6**, Krause discloses a computer readable medium storing a computer program which when executed performs the implementation for distributing electronic document distribution system where a user access via a plurality of data processor controlled interactive display terminals for sending and receiving broadcasting packets (Krause, Pg 7 [0076]), said program for routing broadcasting packets from sending router to a receiving router comprising: means for temporarily storing broadcasting payload inside the receiving broadcasting router (Krause, Pg 7 [0077], Pg 10 [0094], Pg 11 [0102]), means for temporarily stripping the broadcasting payload from the broadcasting packet (Krause, Pg 7 [0077], Pg 10 [0094], Pg 11 [0102]); means for transmitting header for each of the plurality of the broadcasting packet from the sending router to the receiving router, wherein said packets have different headers and identical payloads (Krause, Pg 7 [0077], Pg 10 [0094], Pg 11 [0102]); means for attaching the broadcasting payload stored in the receiving router to the header arriving in the receiving router (Krause, Pg 7 [0077], Pg 10 [0094], Pg 11 [0102]); Krause discloses means for temporarily replacing the stripped broadcasting payload (Krause, Pg 7 [0077], Pg 10 [0094], Pg 11 [0102]).

But Krause fails to disclose that an electronic document distribution system for routing broadcasting packets from a sending server to a receiving server.

Nonetheless, Karim discloses an electronic document distribution system for routing broadcasting packets from a sending server to a receiving server (Karim, Pg 3, [0051], [0057]).

Both Karim-Krause provide features related to communication. Therefore one of ordinary skill in the art would have been motivated to combine the teachings since both are within the same environment.

Therefore, it would have been obvious of ordinary skill in the art at the time of the invention was made to incorporate the use of an electronic document distribution system, taught by Karim, in the system of Krause for the purpose of having the system to able to strip document-content related broadcast packets into headers and payloads to enable efficient routing of data.

Claim 1 includes a method with limitations that are substantially similar to the limitations of claim 11. Claim 6 includes a method claim involving distribution of documents in the network with network packets limitations of Claim 11.

Consider **Claim 12, 2, 7** Krause-Karim discloses the system of claim 11 further comprising means in the document distribution system (Karim, Pg 3, [0051], [0057]) for reducing the broadcasting payload of the broadcasting packet to a header (Krause, Pg 7 [0077], Pg 10 [0094], Pg 11 [0102]). Claim 2 includes a method with

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limitations that are substantially similar to the limitations of claim 12. Claim 7 includes a method claim involving distribution of documents in the network with network packets limitations that substantially similar to limitations of Claim 12.

Consider **Claim 13, 3, 8** Krause-Karim discloses the computer readable medium of claim 12 further comprising means for relaying the broadcasting payload to a destination router according to its address to form the full broadcasting packet (Krause, Pg 7 [0077], Pg 10 [0094], Pg 11 [0102]). Claim 3 includes a method with limitations that are substantially similar to the limitations of claim 13. Claim 8 includes a method claim involving distribution of documents in the network with network packets and the limitations that substantially similar to limitations of Claim 13.

Consider **Claim 14, 4, 9**, Krause-Karim discloses the computer readable medium of claim 13 wherein said document distribution system is an electronic mail distribution system associated with electronic mail sources (Karim, Pg 3, [0051], [0057]). Claim 4 includes a method with limitations that are substantially similar to the limitations of claim 14. Claim 9 includes a method claim involving distribution of documents in the network with network packets limitations that substantially similar to limitations of Claim 14.

Consider **Claim 15, 5, 10** Krause-Karim discloses the computer readable medium of claim 13 wherein; said broadcasting payloads are digitized packets (Krause, Pg 7 [0077], Pg 10 [0094], Pg 11 [0102]); and said network distribution system is a network server system (Karim, Pg 3, [0051], [0057]). Claim 5 includes a method with limitations that are substantially similar to the limitations of claim 15. Claim 10 includes a method claim involving distribution of documents in the network with network packets limitations that substantially similar to limitations of Claim 15.

Response to Arguments

The Examiner maintains the current art rejection as stated in the previous office-actions. The current amended claims submitted in 9/18/09 have severe 112 rejections. The new amendment introduces numerous new 112 2nd rejections to the extent that it is almost impossible to meet the bounds of the claims.

Applicant argues that the Krause does not teach transmitting packets having identical payloads and different headers, wherein the payload is stored inside the receiving router and subsequently attached to each header arriving at the receiving router.

Examiner cites that it is well known in the art that header by itself can not be transmitted in a TCP/IP network. The header has to be embedded in a packet. For example an IP packet is made of header and payload. Header without the payload will not be a packet and a header by itself can not be transmitted in an IP network.

The Krause reference will be broadly interpreted to the applicant's claimed invention. In Krause [0077], Krause discloses the stripping of packets from their header and payload. Krause does teach of transmitting identical payloads and different headers (Krause, [0077], [0078], Krause discloses on how the MPEG PID is extracted from the MPEG packet – here the MPEG PID will be treated as a payload, and if the next MPEG packet in the sequence of packets have the same MPEG PID, then it has identical payload and different headers).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANISH SIKRI whose telephone number is 571-270-1783. The examiner can normally be reached on 8am - 5pm Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia Dollinger can be reached on 571-272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anish Sikri
a.s.

3/1/10

/Tonia LM Dollinger/
Supervisory Patent Examiner, Art Unit 2443